
Program Memorandum Intermediaries/Carriers

Department of Health and
Human Services (DHHS)
HEALTH CARE FINANCING
ADMINISTRATION (HCFA)

Transmittal AB-01-62

Date: APRIL 25, 2001

CHANGE REQUEST 1617

SUBJECT: Administrative Law Judge (ALJ) Case File Preparation, Requests from the Departmental Appeals Board (DAB) for Case Files, and Retrieval of Master Files for the DAB

This Program Memorandum (PM): (1) addresses the contents of claim appeal case files sent to ALJs and the proper assembly of case files, (2) emphasizes the continuing need for contractors to forward all Part B appeal requests directly to the Office of Hearing and Appeals (OHA) headquarters, and (3) addresses requests from the DAB for claim appeal case files and the procedures for retrieval of claim appeal master record files for the DAB. This PM contains information regarding Medicare Intermediary Manual (MIM) §3785 and Medicare Carrier Manual (MCM) §12027.

NOTE: A new MCM Section 12000 will be issued shortly.

Documents in the Appeals Case File:

The case file must contain the items listed below, arranged in descending date order (i.e., earliest on bottom and latest on top with all procedural documents preceding all medical documents). Form HCFA-3509 (version 12/99) must be placed on front cover of the case file. Disregard earlier versions of this form.

NOTE: For applicable items, send originals and retain copies for your records. If you are unable to send the original documents, send copies along with a letter on contractor letterhead and signed by a manager certifying that the copies are true facsimiles of the original documents.

Procedural Documents

- o Claim form or printout, if electronically generated (facsimile and/or screen prints are acceptable, include an explanation of what the fields mean if necessary);
- o Explanation of Your Medicare Benefits (EOMB)/Medicare Summary Notice (MSN)/Remittance Advise (RA) (facsimile and/or screen prints are acceptable, include an explanation of what the fields mean if necessary);
- o Review or reconsideration request;
- o Review or reconsideration determination;
- o Hearing Officer (HO) hearing request, if applicable;
- o HO hearing decision, if applicable;
- o Original request for Part A or Part B ALJ hearing; and

- o Appointment of representative form (HCFA-1696-U4 or SSA-1696-U4) or other written authorization, if applicable.

Medical Documents

- o Medical records, separated by facility or doctor;
- o Referral to/from your medical staff, with professional qualifications of the reviewer noted in the document, if applicable;
- o Copies of carrier, intermediary, program safeguard local medical review policies, or regional medical review policies upon which the HO relied, if applicable;
- o Copies of relevant portions of the law, regulations, HCFA rulings, national coverage determinations/decisions, HCFA manuals, newsletters, any other information used to make a determination; and
- o Any other exhibits that you consider important for the ALJ to consider (e.g., some cases will involve fee schedule information, some will have tape-recorded hearings).

Assembling the File

Assemble the file in the following manner:

- o Use a standard 9" x 12" folder or accordion folder. If a tape of the hearing is included, place it in an envelope, label the envelope with identifying information, and staple the envelope securely to the inner left hand side of the folder;
- o For aggregated requests filed by a beneficiary, keep the documents relating to treatment from each physician or supplier together. Separate the documents relating to each physician or supplier by a blank sheet of paper;
- o For aggregated requests filed by a physician or other supplier, keep the documents relating to each beneficiary together and organized alphabetically by beneficiary last name. Separate the documents relating to each beneficiary by a sheet of paper or in separate folders. Include the beneficiary's name, Medicare Insurance Claim Number (HICN) and date(s) of service involved on the sheet of paper or folder cover. Provide a complete set of procedural documents for each beneficiary, including the hearing decision and the request for the ALJ hearing (if the same hearing decision and laws apply for all beneficiaries in the case, include only one set);
- o Group procedural and medical documents together in chronological order (most recent on top and oldest on bottom); and
- o Attach Form HCFA-3509 to the front cover of the file. Use only the 12/99 version. All prior versions should be discarded and not used.

Forwarding Part B Case Files to OHA

Subsequent to the completion of a case being heard by a HO, and where the appellant requests a hearing before an ALJ, all cases (Part B) are to be sent directly to the OHA headquarters in Falls Church, Virginia at the following address:

Office of Hearings & Appeals
 Division of Medicare
 5107 Leesburg Pike, Suite 502
 Falls Church, VA 22041-3255

Requests from the DAB for Claim Appeal Case Files

When the DAB receives a request for review from an appellant, in most instances it will not have a copy of the ALJ's decision or dismissal, or the case file. The DAB must then determine which Medicare contractor has the case file and must ask that the contractor forward the file to the DAB. Comply with the DAB's request for the case file, supplying the actual case file in the exact order and manner as you received it from the Social Security Administration/ Office of Hearings and Appeals (SSA/OHA) via Empire Medicare Services, the ALJ clearinghouse in Yorktown Heights. Forward the requested case file within 21 days of the request to the DAB. Maintain a log of all requests made by the DAB for case files, noting the date of the request, the manner in which it was made, the name of the contact, any identifying information given, and your response.

Procedures for Claim Appeal Master File Retrieval

For the purposes of this PM, a **master record/master file** is a single beneficiary claim (already identified by an SSA-assigned 9 digit docket number or HICN) which is identified by the ALJ as the master record as a result of a consolidated hearing addressing a large number of claims. The ALJ places the generally applicable documents in the master (record) file as enumerated exhibits. This is done to formally enter the material into the administrative record.

If, following the issuance of the ALJ's decision(s), an appeal or agency referral is filed with regard to any claim addressed in a consolidated proceeding, the DAB must retrieve the appealed/referred claim(s) as well as the related master record in order to review all the portions of the administrative record. Accordingly, contractors must give **precedence** to DAB requests for master records. (The DAB will identify master records, if known, when making folder requests.) When the DAB requests master records from you, forward the master record files as compiled by the ALJ, including all hearing tapes, to the DAB as expeditiously as possible (no later than 21 days from the DAB request). If a copy is made, retain the copy and send the original ALJ compilation to the DAB.

NOTE: Retrieval of the master file may be complicated by the ALJ's release of the master record claim decision at a different time than other decisions in the group.

In situations where the ALJ issues a dismissal rather than a decision on a group of cases with an identified master record, follow the above directions for forwarding the master record to the DAB if requested.

The *effective date* for this PM is April 30, 2001.

The *implementation date* for this PM is May 11, 2001.

These instructions should be implemented within your current operating budget.

This PM may be discarded May 1, 2002.

If you have any questions, contact Jennifer Eichhorn at (410) 786-9531, E-Mail JEichhorn@hcfa.gov or Steve Miller at (410) 786-6656, E-Mail SMiller1@hcfa.gov.

Providers/suppliers are to contact their intermediary or carrier.

For DMERCs only: HCFA is preparing a contract modification. Do not begin work on this PM until the modification is executed.